IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Criminal Writ Petition No.409 of 2006

Sandeep Kisanrao Khadse
vs
State of Maharashtra and one

Office Notes, Office Memoranda of Coram, : Appearances, Court's orders or directions : Court's or Judge's orders and Registrar's orders.

Mr. N.A.Badar, Advocate for the Petitioner,
Mr. A.D. Sonak, APP for the respondents/State.

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CORAM : K. J. ROHEE & C. L. PANGARKAR, JJ
DATED : OCTOBER 7, 2006

P.C.

1. Rule. Returnable forthwith. Heard finally by consent of parties.

2. The petitioner is a life convict. He was arrested on 28.8.2000 and was convicted on 31.3.2003. On 18.3.2004 he was released on furlough leave. His second application for furlough leave was rejected by respondent no.2 by order dated 31.7.2006 on the ground that on the previous occasion he surrendered late by 48 days, there was apprehension of his absconding and if he is released on furlough it would result in causing breach of public peace and tranquility. The petitioner has challenged the said order.

3. The learned counsel for the petitioner submitted that on the previous occasion the petitioner surrendered late because of the illness of his mother. He had produced the medical certificate about illness of his mother before the concerned authority. The authority was satisfied and that is why leniency was shown to him while cutting his remission from his account. The learned counsel for the petitioner further submitted that the report of Superintendent of Police, Amravati shows that there is danger to the life of the complainant from the petitioner. However, the report nowhere shows that if he is released on furlough it would result in causing breach of public peace and tranquility. Considering these circumstances, we are satisfied that the impugned order rejecting the furlough leave to the petitioner cannot be sustained and it will have to be quashed and set aside. Hence the order :

4. The writ petition is allowed. The impugned order dated 31.7.2006 passed by respondent no.2 is hereby quashed and set aside. Respondent no.2 is directed to release the petitioner on furlough for 15 days by taking adequate security.

5. Rule is made absolute in the above terms.

JUDGE **JUDGE**

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